UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,186	10/20/2003	Sheng Ye	CN920020009US1	2701

48062 7590 12/17/2007	EXAMINER
RYAN, MASON & LEWIS, LLP 1300 POST ROAD SUITE 205 FAIRFIELD, CT 06824	HILLERY, NATHAN

ART UNIT	PAPER NUMBER
2176	

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12/17/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _04 October 2007_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-11,16,20 and 21_ is/are pending in the application.

    4a) Of the above claim(s) _1-11_ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _16,20 and 21_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This action is responsive to communications: RCE filed on 10/4/07.

2.   Claims 1 – 11, 16 and 20 – 21 are pending in the case. Claims 16 and 20 are

independent. Claims 16 and 20 – 21 have been elected for examination at this time.

Continued Examination Under 37 CFR 1.114

3.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/4/07

has been entered.

Claim Rejections - 35 USC § 101

4.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

5.   Claims 16 and 20 – 21 are rejected under 35 U.S.C. 101 because the claimed

invention is directed to non-statutory subject matter.

Claims 16 and 20 – 21 are considered software per se. Computer programs may

be explicitly claimed as, for example, a series of code or instructions for performing

functions or may be implicitly claimed as, for example, a system, a module or an

apparatus, the latter being the case here in the form of an apparatus that does not

necessarily require hardware.

Thus a claim to functional descriptive material, including computer programs, per

se, is not patent eligible subject matter. It should be noted that functional descriptive

material claimed in combination with an appropriate computer storage medium to

enable the functionality to be realized is patent eligible subject matter if it is capable of

producing a useful, concrete and tangible result when used in the computer system.

Further, to expedite a complete examination of the instant application the claims

rejected under 35 U.S.C. 101 (nonstatutory) above are further rejected as set forth

below in anticipation of applicant amending these claims to make them statutory.

Claim Rejections - 35 USC § 102

6.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7.   Claims 16 and 20 – 22 are rejected under 35 U.S.C. 102(b) as being anticipated

by Barr (Programming Embedded Systems in C and C++).

8.   **Regarding independent claims 16 and 20,**

Barr teaches that a symbol table somewhere in the object file that contains the

names and locations of all the variables and functions referenced within the source file

(p 2, third full paragraph), which meet the limitation of **determining a data type and**

data location for the data in the original data files;

Barr teaches that the contents of an object file can be thought of as a very large,

flexible data structure. The structure of the file is usually defined by a standard format. If

you'll be using more than one compiler (i.e., you'll be writing parts of your program in different source languages), you need to make sure that each is capable of producing object files in the same format (p 2, first full paragraph), which meet the limitation of **determining correspondence between the original data files and formats of the object data files**;

Barr teaches that a symbol table somewhere in the object file that contains the names and locations of all the variables and functions referenced within the source file (p 2, third full paragraph), which meet the limitation of **determining locations of the original data files based on location descriptions on one or more data units**.

Barr teaches that each of these sections contains one or more blocks of code or data that originated within the original source file (p 2, second full paragraph), which meet the limitation of **extracting the original data files**;

Barr teaches that regardless of the input language (C/C++, assembly, or any other), the output of the cross-compiler will be an object file. This is a specially formatted binary file that contains the set of instructions and data resulting from the language translation process (p 1, fourth paragraph), which meet the limitation of **transforming the extracted data into output text object data files based on correspondence between data units to be located and specific formats of the object data files**.

Barr teaches that the output of the cross-compiler will be an object file (p 1, fourth paragraph), which meet the limitation of **outputting the text object data files**.

9.   **Regarding dependent claim 21**, Barr teaches that all of the code blocks are

collected into a section called text (p 2, second full paragraph), which meet the limitation

of **wherein the data type is one of "Text", "SingleLine", "MultiLine", "Block" and**

"Iterator".

Response to Arguments

10.   Applicant's arguments filed 10/4/07 have been fully considered but they are not

persuasive.

11.   Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount

to a general allegation that the claims define a patentable invention without specifically

pointing out how the language of the claims patentably distinguishes them from the

references.

12.   Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not

clearly point out the patentable novelty which he or she thinks the claims present in view

of the state of the art disclosed by the references cited or the objections made. Further,

they do not show how the amendments avoid such references or objections.

13.   As far as can be understood by the Office, applicant argues that Barr fails to

teach, disclose, or suggest the limitations of representative claim 20 because the

unidentified portion of Barr cited by Applicant does not disclose the limitations.

14.   The Office maintains in the rejection above that the teachings of Barr meet all the

limitations of the claimed invention. None of the alleged portions of Barr cited by

applicant were used in the Office's rejection. Further, applicant argues Barr's supposed

teachings of linking (pp 9 - 10) when the Office relies on Barr's teachings of compiling.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Hillery whose telephone number is (571) 272-4091. The examiner can normally be reached on M - F, 10:30 a.m. - 7:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Hutton can be reached on (571) 272-4137. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nathan Hillery
Examiner
Art Unit 2176

NH